

current action has no effect on that prior closure. Recreational anglers may continue to fish for large medium and giant ABT under the NMFS tag-and-release program (§ 285.27).

Subsequent adjustments to the daily catch limit, if any, shall be announced through publication in the Federal Register. In addition, anglers may call the Highly Migratory Species Information Line at 301-713-1279 for updates on quota monitoring and catch limit adjustments. Anglers aboard Charter/Headboat and General category vessels, when engaged in recreational fishing for school, large school, and small medium ABT, are subject to the same rules as anglers aboard Angling category vessels.

#### Classification

This action is taken under 50 CFR 285.20(b) and 50 CFR 285.22 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 971 *et seq.*

Dated: June 10, 1996.

Richard H. Schaefer,  
Director, Office of Fisheries Conservation and  
Management, National Marine Fisheries  
Service.

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#### 50 CFR Part 285

[Docket No. 960416112-6164-02; I.D.  
030896D]

RIN 0648-AI29

#### Atlantic Tuna Fisheries; Annual Quotas and Effort Controls

**AGENCY:** National Marine Fisheries  
Service (NMFS), National Oceanic and  
Atmospheric Administration (NOAA),  
Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS amends the regulations governing the Atlantic tuna fisheries to: Set Atlantic bluefin tuna (ABT) fishing category quotas for the 1996 fishing year, revise allocations to monthly quota periods and establish the effort control schedule in the ABT General category, allow the partial transfer of quotas among Purse Seine category permit holders and amend landing requirements, and increase minimum sizes for Atlantic yellowfin and bigeye tunas. The regulatory amendments are necessary to implement the 1994 recommendation of the International Commission for the Conservation of Atlantic Tunas (ICCAT) regarding fishing quotas for bluefin tuna, as required by the Atlantic Tunas

Convention Act (ATCA), and to achieve domestic management objectives.

**EFFECTIVE DATE:** The rule is effective June 18, 1996.

**ADDRESSES:** Copies of supporting documents, including an Environmental Assessment Regulatory Impact Review (EA/RIR), are available from, William Hogarth, Acting Chief, Highly Migratory Species Management Division, Office of Fisheries Conservation and Management (F/CM), NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3282.

**FOR FURTHER INFORMATION CONTACT:** William Hogarth, 301-713-2347.

**SUPPLEMENTARY INFORMATION:** The Atlantic tuna fisheries are managed under regulations at 50 CFR part 285 issued under the authority of ATCA. ATCA authorizes the Secretary of Commerce (Secretary) to implement regulations as may be necessary to carry out the recommendations of ICCAT. The authority to implement ICCAT recommendations has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

Background information about the need for revisions to Atlantic tunas fishery regulations was provided in the proposed rule (61 FR 18366, April 25, 1996) and is not repeated here. These regulatory changes will improve NMFS' ability to implement the ICCAT recommendations and further the management objectives for the Atlantic tuna fisheries:

#### Fishing Category Quotas

The ABT fishing category quotas for the 1996 fishing year are as follows: General category—541 mt; Harpoon Boat category—53 mt; Purse Seine category—251 mt; Angling category—243 mt; Incidental category—110 mt; and Reserve—108 mt.

The Angling category quota is subdivided as follows: No more than 5 mt may be large medium or giant ABT; no more than 138 mt may be school ABT; and the quota for school ABT is further subdivided as 65 mt for the southern area and 73 mt for the northern area.

The Incidental category quota is subdivided as follows: 109 mt for longline vessels, no more than 86 mt in the southern area; and 1 mt for vessels taking ABT incidental to fishing with other authorized gear.

#### General Category Effort Controls

The General category quota is distributed as follows: 25 percent in June-July; 35 percent in August; 30 percent in September; and 10 percent in

October-December. These percentages are applied only to the base quota of 531 mt, with the remaining 10 mt being reserved for the New York Bight fishery in October. Thus, of the 531 mt total, 133 mt is available in the period beginning June 1 and ending July 31; 186 mt is available in the period beginning August 1 and ending August 31; 159 mt is available in the period beginning September 1 and ending September 30; and 63 mt (53 mt based on 10 percent, plus 10 mt New York Bight fishery) is available in the period beginning October 1 and ending December 31.

Attainment of quota in any period will result in a closure until the subsequent period, whereupon any underharvest or overharvest would be carried over to the subsequent period to adjust the base quota for that period. Inseason closures will be filed at the Office of the Federal Register, stating the effective date of closure, and announced through local media and over NOAA weather radio.

In 1995, daily closures (Sunday, Monday, and Wednesday) were implemented to lengthen the fishing season. This rule removes Wednesday as a restricted fishing day and includes Tuesday as a restricted fishing day. Having three consecutive days closed will increase the likelihood of accomplishing the objective of temporarily extending the fishing season by facilitating enforcement of the daily closures.

Under this rule, the effective period of the effort controls is limited to mid-July through mid-September, corresponding to the historical period when catch rates are highest. Also, some adjustments to the effort control schedule are made to reflect increased fishing activity on holiday weekends and market closures in Japan. Thus, persons aboard vessels permitted in the General category or the Charterboat/Headboat category would not be allowed to fish for, catch, retain or land large medium or giant ABT on designated restricted fishing days: July 14, 15, 16, 21, 22, 23, 28, 29, and 30; August 4, 5, 6, 9, 10, 11, 12, 18, 19, 20, 25, 26, and 27; and September 3, 8, 9, 10, 15.

#### Purse Seine Requirements

This rule implements, for the Purse Seine category alone, a more flexible method of allocation of the domestic U.S. quota. Individual purse seine allocations of bluefin tuna quota are transferable, in whole or in part, to any other purse seine vessel permitted in the Atlantic tunas fisheries. Wholesale or partial transfers of allocation require written notice to NMFS 3 days in

advance of landing any bluefin tuna transferred from another purse seine vessel's annual allocation. In addition, purse seine vessel operators may land ABT in dressed, rather than round, form.

#### Minimum Size for Yellowfin and Bigeye Tuna

NMFS increases the yellowfin and bigeye tuna minimum size limits to 27 inches (69 cm) according to the curved measurement method. This measure will improve compliance with the ICCAT recommendation on ABT minimum size by facilitating enforcement and reducing problems associated with misidentification of juvenile tunas.

#### Comments and Responses

##### Quota Allocations

*Comment:* Many fishery participants stated the need, based on increased participation rates and the usefulness of scientific data obtained, to increase the allocation to the Angling and General categories.

*Response:* NMFS agrees that participation in the General and Angling categories has increased in recent years and has resulted in early closures for these categories. Because of the reliance on the large fish and small fish catch-per-unit-effort indices for stock assessment, the General and Angling category fisheries should be kept open as long as possible to achieve high survey sampling rates over the widest possible geographic area. Also, NMFS, in response to recommendations from the National Research Council, has increased scientific sampling, working with outside organizations, for genetic studies, microconstituent analysis, sexual maturity determination, tagging studies, and age and growth studies. For these reasons, NMFS has reallocated 42 mt from the Incidental category to the Reserve category. A total reserve of 108 mt will allow NMFS to transfer tonnage into other categories, as needed, to keep fisheries open for the longest period possible to maximize scientific data collection. The criteria for such inseason transfers are stipulated in the regulations and are not changed by this rule.

*Comment:* Many fishery participants expressed concern that the proposed transfer of 95 mt from the Reserve to the Angling category would increase the take of small fish, thus increasing fishing mortality in a manner inconsistent with the ICCAT rebuilding schedule for ABT.

*Response:* The Final Environmental Impact Statement (FEIS) published in

July 1995 (copies available from NMFS, see ADDRESSES) as part of the 1995 final rulemaking process, included a wide variety of "alternative" quota allocations. These were analyzed in a bio-economic model based on the stock assessment parameters at that time (which may be modified with the 1996 stock assessment) as well as economic parameters. The model is based on a 17-year time horizon, and present value calculations for net economic benefits from the commercial and recreational fishery. Given the difficulty in updating the bio-economic model for examining a new alternative, the effect of the 95-mt transfer is considered given a similar case among the alternatives in the FEIS.

The "Quota Allocation C" considers the effect of a total closure of the Purse Seine category, with the quota being allocated proportionally to the remaining gear categories. This would result in approximately 89 mt being transferred to the Angling category, which is fairly close to the proposed 95-mt transfer.

Assuming a 2200-mt total quota (as adopted), stocks do recover under Allocation C, although slower than for other allocations, due to the relatively higher amount of quota for the small fish fishery (Figure 4.1-B, page 137). However, mid-year biomass is less than 5 percent lower by the end of the 17-year horizon under this reallocation than under the status quo allocation. Also, net economic benefits fall 4 percent in the commercial fishery and rise 14 percent in the recreational fishery under Allocation C. Since the FEIS analyzed a permanent transfer, NMFS believes that the effect of this one-time transfer is insignificant.

*Comment:* Some fishery participants expressed concern that transfers of ABT to the Angling category would increase the likelihood of exceeding the ICCAT quota, since landings by anglers are monitored by survey rather than dealer reports.

*Response:* As proposed, the Angling category quota does not exceed the ICCAT 8% limit for school ABT as applied on a biannual basis. The need for adjusting the 1996 Angling category quota above the 1992 base level has been generated in part because of the difficulty in monitoring recreational catch on a real-time basis; the unprecedented catches off North Carolina between January and March 1996; and the catch limits in effect in early 1996. NMFS intends to address each of those issues to improve the monitoring and management of this fishing category. In the short term, changes in the survey methodology are being implemented. In the long term,

NMFS is working with industry to develop new approaches, including use of individual tags for retained ABT, mandatory self reporting techniques, and an examination of the benefits of mandatory catch and release fishing for ABT from January through June. In addition, simultaneous with this final rule, NMFS is adjusting the daily catch limits for ABT to 1 school/large school per angler per day and 1 small medium per vessel per day. This catch limit is lower than that authorized in 1995 and should ensure that the Angling category quota is not exceeded.

#### General Category Effort Controls

*Comment:* Most commenters supported the use of days off as a means to extend the fishing season for large medium and giant ABT. Many recommend the implementation of consecutive days off (Sunday, Monday, and Tuesday) to facilitate enforcement and to make travel plans easier for part-time fishermen. There were a few comments in support of maintaining the existing days off (Sunday, Monday, and Wednesday), because of the Japanese market schedule. Some General category participants suggested keeping August 12 and 13 as fishing days in order to be prepared for the re-opening of the Japanese market on August 17. Most commenters requested that days off continue beyond the last listed date in the proposed rule (Sept. 15).

*Response:* NMFS recognizes that one of the objectives of the General category effort control schedule is to improve marketing opportunities for the U.S. industry. However, restricted fishing days are easier to enforce when they are consecutive, thereby increasing the likelihood that the objectives of effort controls are realized. Recognizing the significance of the market re-opening, NMFS has adjusted the schedule to allow fishing on August 13, 1996. Also, given the increasing likelihood of bad weather days after mid-September, the need for scheduled effort controls is diminished. However, if necessary, NMFS could make inseason adjustments to the effort control schedule.

*Comment:* Regarding the line defining the New York Bight area, several people commented that a line originating at Montauk Point does not accurately define the traditional Mud Hole fishery and encourages New England fishermen to continue fishing after the General category fishery is closed and land in Long Island. The line should originate at Moriches Inlet as it did in past seasons. It was also noted, that the proposed boundary line at Montauk point would preclude vessels from landing ABT in Montauk Harbor, because it would be

necessary to leave the set-aside area in rounding Montauk Point.

*Response:* In 1995, NMFS addressed concerns about participation in the Mud Hole fishery by Montauk vessels by defining the set-aside area to originate at Shinnecock inlet, as opposed to Moriches inlet in prior years. Due to concerns about preserving traditional participation in the Mud Hole fishery and enforcement of the requirement to land ABT within the set-aside area, NMFS again sets the boundary at Shinnecock inlet.

#### *Purse Seine Requirements*

*Comment:* Many commenters oppose the transfer of individual quota allocations by purse seine vessels either to other purse seine vessels or vessels permitted in other categories.

*Response:* NMFS is allowing transfers only within the Purse Seine category. Such transfers, in part or in whole, will improve marketing conditions for purse seine vessel operators while reducing discard rates.

#### *Permits and Reporting*

*Comment:* Some commenters are concerned that the category classifications defined in 1995 have allowed too many vessels into the General category. Redefinition is necessary to keep anglers from keeping and selling too many large medium and giant ABT.

*Response:* In 1995, NMFS had proposed a strict separation of the General and Angling category fisheries. The majority of permit holders claimed that participation in fisheries for both large and small ABT was essential to their commercial and recreational fishing operations. It was further claimed that the proposed separation would result in decreased effort and needless adverse economic impacts. NMFS received similar comments during three limited access workshops held in recent months. NMFS continues to accept comments on the potential impacts of limited access on the Atlantic tuna fisheries.

#### *Size Limits*

*Comment:* Many anglers catch both yellowfin and bluefin. Most commenters agree that it is difficult to differentiate juvenile Atlantic tunas. Although 22 inches (56 cm) is the ICCAT minimum, NMFS should reduce confusion and possible violation of ICCAT minimum size by having a consistent yellowfin, bigeye, and bluefin tuna minimum size of 27 inches (69 cm).

*Response:* NMFS agrees, and this rule effects these changes.

*Comment:* Some people recommended that NMFS set an even higher size limit for yellowfin and bigeye to allow fish to spawn at least once.

*Response:* From a biological perspective, NMFS agrees that further increasing the minimum size could be beneficial, theoretically increasing yield per recruit and spawning per recruit ratios. However, more information is needed on the potential impact for both recreational and commercial sectors, especially the effect on discard rates and an analysis of release mortality before other minimum size limits are proposed.

*Comment:* Some fishermen and NMFS enforcement agents expressed concern that the instructions for taking a curved length measurement were unclear and could result in different determinations of size classes.

*Response:* The instructions for taking a curved length measurement are respecified in this rule.

#### *Other Comments*

*Comment:* Some North Carolina commenters requested that the opening date of the General category season be changed to January 1 to allow retention and sale of large medium and giant ABT. Many commenters oppose a January 1 opening date and the allocation of Angling and Incidental quota to North Carolina at this time. Some feel that, because the bluefin fishery is not traditional, commercial harvest should not be allowed. If the stock recovers and if quotas increase, a geographical quota could be considered. Some commented that because the economic benefits derived from recreational fishing far outweigh those of commercial fishing, the North Carolina fishery should remain as catch-and-release only.

*Response:* Given the restrictive quota under the ICCAT rebuilding schedule, NMFS first allocates available quota to traditional users. Should quotas increase, NMFS can consider new fisheries.

*Comment:* Many fishermen expressed concern about the use of spotter planes in the General category. Others suggested prohibiting the planes from assisting vessels of all categories.

*Response:* The spotter plane issue will not be addressed in this final rule. NMFS has concerns about the enforceability of spotter plane regulations. However, NMFS will continue to monitor this situation and will take appropriate action if necessary.

*Comment:* Many General category participants wrote that a 3-day notice would be adequate for waiver of

restricted fishing days or adjustment of catch limits, especially in light of real-time reporting mechanisms such as the NMFS Information Line and NOAA Weather Radio.

*Response:* NMFS concurs and, therefore, reduces the required notification period to 3 days.

*Comment:* The Offshore Resource Management Corporation petitioned NMFS to make pair trawling an authorized gear type and to establish a swordfish bycatch limit for the pair trawl tuna fishery. Supporters of the petition stress that the gear type is highly selective in regard to species and size and results in low encounters with marine mammals and protected species. Many people opposed the authorization of pair trawling, because it would allow increased effort in an already fully- or over-exploited fishery.

*Response:* NMFS is currently analyzing data collected by at-sea observers on pair trawl vessels over the course of the 3-year experimental fishery. NMFS will make a determination regarding the petition for rulemaking once this analysis is complete. NMFS has also included pair trawl representatives on the Offshore Cetaceans Take Reduction Team as developed under the Marine Mammal Protection Act.

*Comment:* The Massachusetts Audubon Society (MAS) petitioned NMFS to prohibit retention of bluefin tuna under 73 inches (185 cm) by anyone in order to protect pre-spawning fish and therefore allow stock recovery. MAS also requests a tag and release program for juvenile bluefin. Many commenters wrote in support of the petition. Others recognized the need to limit the harvest of small fish, but disagreed with the MAS proposal. Those opposed argued the importance of the juvenile ABT fishery to scientific monitoring and to local economies.

*Response:* From a biological perspective, elimination of the small fish fishery would have the highest benefits in terms of stock rebuilding. However, the stock is expected to rebuild anyway for all scenarios in the ABT FEIS. From a socio-economic perspective, this proposal is not necessarily optimal or desirable. The result would be a shift in quota allocation and therefore an increase in commercial revenues. However, employment associated with the recreational fishery and expenditures in coastal communities would decline. It is not clear that the gains in one sector would be commensurate with the losses elsewhere.

### Changes From the Proposed Rule

Based on consideration of comments received, and further analysis of available data, the following changes were made to the proposed rule: The line defining the boundary of the New York Bight set-aside area is established at Shinnecock inlet, advance notice of inseason adjustments is reduced to 3 days, and the method of taking a curved measure for Atlantic tunas is respecified.

### Classification

This rule is published under the authority of the ATCA, 16 U.S.C. 971 *et seq.* The AA has determined that the regulations contained in this final rule are necessary to implement the recommendations of ICCAT and are necessary for management of the Atlantic tuna fisheries.

NMFS prepared an EA for this final rule with a finding of no significant impact on the human environment. In addition, an RIR was prepared with a finding of no significant impact. The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. For most fishing categories, quotas are proposed at levels similar to prior years. Although the reduction in Incidental category quotas of 28 percent amounts to a significant impact on gross revenues for that sector, the number of vessel operators affected does not exceed 5 percent of the tuna fleet. Thus, a Regulatory Flexibility Analysis was not prepared.

This final rule has been determined to be not significant for purposes of E.O. 12866.

NMFS has determined that there is good cause to waive partially the 30-day delay in the effective date normally required by section 553(d) of the Administrative Procedure Act. Since this fishery is underway, early implementation of the 1996 fishing category quotas and minimum sizes will ensure effective implementation of the ICCAT recommendations. Given NMFS ability to rapidly communicate these rule changes to fishing interests through the FAX network and NOAA weather radio, a seven day notice is deemed sufficient.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the

requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget Control Number.

Notifications of purse seine allocation transfers are not subject to the PRA, because only a maximum of five vessels could be subject to reporting under this requirement. Since it is impossible for 10 or more respondents to be involved, the notifications are exempt from the PRA clearance requirement.

### List of Subjects in 50 CFR Part 285

Fisheries, Fishing, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: June 10, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 285 is amended as follows:

### PART 285—ATLANTIC TUNA FISHERIES

1. The authority citation for part 285 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*

2. In § 285.2, the definition of "Curved fork length" is revised to read as follows:

#### § 285.2 Definitions.

\* \* \* \* \*

*Curved fork length* means a measurement of the length of Atlantic tuna taken in a line tracing the contour of the body from the tip of the upper jaw to the fork of the tail, which abuts the ventral side of the pectoral fin and the ventral side of the caudal keel.

\* \* \* \* \*

3. In § 285.22, paragraphs (a)(1), (a)(3), (b), (c), (d), (e), and the first sentence of paragraph (f) introductory text are revised to read as follows:

#### § 285.22 Quotas.

\* \* \* \* \*

(a) *General.* (1) The total annual amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed or landed in the regulatory area by vessels permitted in the General category under § 285.21(b) is 541 mt, of which 133 mt are available in the period beginning June 1 and ending July 31; 186 mt are available in the period beginning August 1 and ending August 31; 159 mt are available in the period beginning September 1 and ending September 30;

and 63 mt are available beginning October 1.

\* \* \* \* \*

(3) When the October General category catch is projected to have reached a total of 10 mt less than the overall October quota, the Director will publish a notification in the Federal Register to set aside the remaining quota for an area comprising the waters south and west of a straight line originating at a point on the southern shore of Long Island at 72°27' W. long. (Shinnecock Inlet) and running SSE 150° true. The daily catch limit for the set-aside area will be one large medium or giant Atlantic bluefin tuna per vessel per day. Upon the effective date of the set-aside, fishing for, retaining, or landing large medium or giant Atlantic bluefin tuna must cease in all waters outside of the set-aside area.

(b) *Harpoon Boat.* The total annual amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed, or landed in the regulatory area by vessels permitted in the Harpoon Boat category under § 285.21(b) is 53 mt.

(c) *Purse Seine.* The total amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed, or landed in the regulatory area by vessels permitted in the Purse Seine category under § 285.21(b) is 251 mt.

(d) *Angling.* The total annual amount of Atlantic bluefin tuna that may be caught, retained, possessed, or landed in the regulatory area by anglers is 243 mt. No more than 5 mt of this quota may be large medium or giant bluefin tuna quota. No more than 138 mt of this quota may be school Atlantic bluefin tuna. The quota for school Atlantic bluefin tuna is further subdivided as follows:

(1) 65 mt of school Atlantic bluefin tuna may be caught, retained, possessed, or landed south of 38°47' N. lat.

(2) 73 mt of school Atlantic bluefin tuna may be caught, retained, possessed, or landed north of 38°47' N. lat.

(e) *Incidental.* The total annual amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed, or landed in the regulatory area by vessels permitted in the Incidental Catch category under § 285.21(b) is 110 mt. This quota is further subdivided as follows:

(1) 109 mt for longline vessels. No more than 86 mt may be caught, retained, possessed, or landed in the area south of 34°00' N. lat.

(2) For vessels fishing under § 285.23 (a) and (b), 1 mt may be caught, retained, possessed, or landed in the regulatory area.

(f) *Inseason adjustment amount.* The total amount of Atlantic bluefin tuna that will be held in reserve for inseason adjustments is 108 mt. \* \* \*

4. In § 285.24, paragraphs (a)(1), (a)(2), and (d)(3) are revised to read as follows:

**§ 285.24 Catch limits.**

(a) *General category.* (1) From the start of each fishing year, except on designated restricted fishing days, only one large medium or giant Atlantic bluefin tuna may be possessed or landed per day from a vessel for which a General category permit has been issued under § 285.21. On designated restricted fishing days, persons aboard such vessels may not possess, retain or land any large medium or giant Atlantic bluefin tuna. For calendar year 1996, designated restricted fishing days are: July 14, 15, 16, 21, 22, 23, 28, 29, and 30; August 4, 5, 6, 9, 10, 11, 12, 18, 19, 20, 25, 26, and 27; and September 3, 8, 9, 10, 15.

(2) The Assistant Administrator may increase or reduce the catch limit over a range from zero (restricted fishing days) to a maximum of three large medium or giant Atlantic bluefin tuna per day per vessel based on a review of dealer reports, daily landing trends, availability of the species on the fishing grounds, and any other relevant factors, to provide for maximum utilization of the quota. The Assistant Administrator will publish a document in the Federal Register of any adjustment in the allowable daily catch limit made under this paragraph. Other than fishery closures pursuant to attainment of quotas in any period, such notice of catch limit adjustment shall be filed at the Office of the Federal Register at least 3 calendar days prior to the change becoming effective.

\* \* \* \* \*

(d) \* \* \*

(3) The Assistant Administrator may increase or reduce the per angler catch limit for any size class bluefin tuna or may change the per angler limit to a per boat limit or a per boat limit to a per angler limit based on a review of daily landing trends, availability of the species on the fishing grounds, and any other relevant factors, to provide for maximum utilization of the quota spread over the longest possible period of time. The Assistant Administrator will publish a document in the Federal Register of any adjustment in the

allowable daily catch limit made under this paragraph. Other than fishery closures pursuant to attainment of quotas in any period, such notice of catch limit adjustment shall be filed at the Office of the Federal Register at least 3 calendar days prior to the change becoming effective.

\* \* \* \* \*

5. In § 285.25, the last sentence of paragraph (c), and paragraph (d)(2) are revised to read as follows:

**§ 285.25 Purse seine vessel requirements.**

\* \* \* \* \*

(c) \* \* \* Purse seine vessel owners must have each large medium and giant bluefin tuna in their catch weighed, measured, and the information recorded on the landing card required under § 285.28(a) at the time of offloading and prior to transporting said tuna from the area of offloading.

(d) \* \* \*

(2) The Regional Director will review applications for allocations of Atlantic bluefin tuna on or about May 1, and will make equal allocations of the available size classes of Atlantic bluefin tuna among vessel owners so requesting. Such allocations are freely transferable, in whole or in part, among purse seine vessel permit holders. Any purse seine vessel permit holder intending to land bluefin tuna under an allocation transferred from another purse seine vessel permit holder must provide written notice of such intent to the Regional Director 3 days before landing any such bluefin tuna. Such notification must include the transfer date, amount (mt) transferred, and the permit numbers of vessels involved in the transfer. Trip or seasonal catch limits otherwise applicable under § 285.24(c) are not altered by transfers of bluefin tuna allocation. Purse seine vessel permit holders who, through landing and/or transfer, have no remaining bluefin tuna allocation may not use their permitted vessels in any fishery in which Atlantic bluefin tuna might be caught.

\* \* \* \* \*

6. In § 285.26, the paragraph preceding the table is revised to read as follows:

**§ 285.26 Size classes.**

Total curved fork length will be the sole criterion for determining the size class of whole (head on) Atlantic bluefin tuna. For this purpose, all

measurements must be taken in a line tracing the contour of the body from the tip of the upper jaw to the fork of the tail, which abuts the ventral side of the pectoral fin and the ventral side of the caudal keel. For any Atlantic bluefin tuna found with the head removed, it is deemed, for purposes of this subpart, that the tuna, when caught, fell into a size class in accordance with the following formula: Total curved fork length equals pectoral fin curved fork length multiplied by a factor of 1.35. The pectoral fin curved fork length will be the sole criterion for determining the size class of a beheaded Atlantic bluefin tuna. For this purpose, all measurements must be taken in a line tracing the contour of the body from the ventral side of the pectoral fin to the fork of the tail, which abuts the ventral side of the caudal keel.

\* \* \* \* \*

7. In § 285.31, paragraph (a)(4) is revised to read as follows:

**§ 285.31 Prohibitions.**

(a) \* \* \*

(4) Fish for, catch, possess or retain Atlantic bluefin tuna in excess of the catch limits specified in § 285.24, or to possess or retain large medium or giant ABT on designated restricted fishing days, except that fish may be caught and released under the provisions of § 285.27.

\* \* \* \* \*

8. Section 285.52 is revised to read as follows:

**§ 285.52 Size limits.**

(a) Fishing for, catching, retaining, or possessing of Atlantic yellowfin and bigeye tunas in the regulatory area by persons aboard fishing vessels subject to the jurisdiction of the United States is authorized only for yellowfin or bigeye tuna measuring 27 inches (69 cm) or more in total curved fork length.

(b) Total curved fork length is the sole criterion for determining the size class of whole (head on) Atlantic yellowfin and bigeye tuna. For this purpose, all measurements must be taken in a line tracing the contour of the body from the tip of the upper jaw to the fork of the tail, which abuts the ventral side of the pectoral fin and the ventral side of the caudal keel.

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